

Attorney Docket Number: FSP0291
Application Number: 09/759,935

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REMARKS

In an office action mailed on 09/09/2008, claims 22-41 are rejected under 35 USC 103(a) as unpatentable over Son, US Pat. #6697376 in view of Ritchie, US Pat #5790523. The Examiner repeats the earlier rejection, finding the Applicant's argument unpersuasive. Claims 22-31, 34-41 are also rejected as unpatentable over Son in view of Dodson, US Pat # 6,873,622. After further consideration, the Applicant still believes his position to be sound, and thus traverses the rejection again, in more detail. In the interests of furthering prosecution, the Applicant has amended the independent claims in order to further clarify the distinguishing features.

The Applicant first wishes to thank the Examiner for his reasoned and professional examination of the present application. The Applicant will now traverse the rejection.

Son in View of Ritchie Does Not Teach The Headend of Claim 22

Claim 22 recites, inter alia, a headend that extracts a group identifier from a VOD request, and which enables one or more modulators associated with the group identifier to pass the video on demand data downstream. These features are entirely lacking from either reference.

The recent Supreme Court case of KSR 127 S. Ct 1742 has set forth some guidelines for when obviousness may be found from combined references. As a threshold matter, the references must teach all significant aspects of the claims. Regarding claim 22, they clearly do not. It is simply not possible to combine Son and Ritchie and obtain the claimed headend features. Son teaches that a group identifier (a Logical Node id) is transmitted downstream from the headend and later sent back from the terminal, not in a VOD request, but at some other, entirely unrelated time. The headend uses the Logical Node ID to build a configuration database; it doesn't extract the group identifier from a VOD request, and it doesn't enable modulators associated with the group identifier to pass the VOD data downstream.

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The most recent Official Action acknowledges that Son does not explicitly teach that the Logical Node ID, i.e., group ID is transmitted upstream with each VOD request, but goes on to assert that Son does state that the group ID is transmitted upstream with messages from the terminal to the server. However, claim 22 is specific that the headend extracts the group identifier from a VOD request, not some other message. The headend of claim 22 enables modulators associated with a group identifier extracted from a VOD request to pass the VOD data downstream. Son not only obtains the group ID from the terminal in an entirely different way, it also uses it for an entirely different purpose. Son and claim 22 are simply describing entirely different applications of a terminal group ID in a streaming network. The applications are so different that the headend of Son is nothing like the headend recited in claim 22.....

Ritchie does not cure the features lacking in Son. Ritchie teaches a customer

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